

**ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

In the Matter of the Revocation of the Collection  
Agency License of:

No. 10F-BD021-BNK

**GREENTREE & ASSOCIATES, INC. AND  
TINA ROUNTREE, CFO/PRESIDENT**  
240 S. Hickory Street, Suite 100  
Escondido, CA 92025

**NOTICE OF HEARING TO REVOKE  
AND COMPLAINT**

Respondents.

PLEASE TAKE NOTICE that, under Arizona Revised Statutes ("A.R.S.") §§ 6-137, 6-138, and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative Hearings, an independent agency, and is scheduled for May 24, 2010, at 8:00 a.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the "Hearing").

The purpose of the Hearing is to determine if grounds exist for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the suspension or revocation of Respondents' license pursuant to A.R.S. § 32-1053; (4) an order to pay restitution of any fees earned in violation of A.R.S. §§ 32-1001, *et seq.*, pursuant to A.R.S. §§ 6-131(A)(3) and 6-137; and (5) an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to preside over the Hearing as the Administrative Law Judge, to make written recommendations to the

1 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office  
2 of Administrative Hearings has designated Lewis D. Kowal, at the address and phone number listed  
3 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative  
4 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the  
5 Superintendent retains his authority to enter orders granting a stay, orders on motions for rehearing,  
6 final decisions under A.R.S. § 41-1092.08 or other order or process which the Administrative Law  
7 Judge is specifically prohibited from entering.

8 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**  
9 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue  
10 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of  
11 Administrative Hearings.

12 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by  
13 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable  
14 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence  
15 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative  
16 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S. § 41-  
17 1092.07(B), any person may appear on his or her own behalf or by counsel.

18 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be  
19 made by a court reporter or by electronic means. Any party that requests a transcript of the  
20 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

21 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant  
22 Attorney General Craig A. Raby, (602) 542-8889, 1275 West Washington, Phoenix, Arizona 85007.

### 23 **NOTICE OF APPLICABLE RULES**

24 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")  
25 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting  
26 forth the rules of practice and procedure applicable in contested cases and appealable agency actions

1 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules  
2 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through  
3 R2-19-122. A copy of these rules is enclosed.

4 Pursuant to A.A.C. R20-4-1209, Respondents shall file a written answer **within twenty (20)**  
5 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Respondents'  
6 position or defense and shall specifically admit or deny each of the assertions contained in this  
7 Notice of Hearing. If the answering Respondents are without or are unable to reasonably obtain  
8 knowledge or information sufficient to form a belief as to the truth of an assertion, Respondents shall  
9 so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted.  
10 When Respondents intend to deny only a part or a qualification of an assertion, or to qualify an  
11 assertion, Respondents shall expressly admit so much of it as is true and shall deny the remainder.  
12 Any defense not raised in the answer is deemed waived.

13 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondents will be**  
14 **deemed in default** and the Superintendent may deem the allegations in this Notice of Hearing as  
15 true and admitted and the Superintendent may take whatever action is appropriate, including  
16 suspension, revocation, denial of Respondents' license or affirming an order to Cease and Desist and  
17 imposition of a civil penalty or restitution to any injured party.

18 Respondents' answer shall be mailed or delivered to the Arizona Department of Financial  
19 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or  
20 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,  
21 Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy  
22 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

23 **Persons with disabilities may request reasonable accommodations such as interpreters,**  
24 **alternative format or assistance with physical accessibility.** Requests for accommodations must  
25 be made as early as possible to allow time to arrange the accommodations. If accommodations are  
26 required, call the Office of Administrative Hearings at (602) 542-9826.

1 COMPLAINT

2 1. Respondent Greentree & Associates, Inc. ("Greentree") is a California corporation  
3 authorized to transact business in Arizona as a collection agency within the meaning of A.R.S. §§  
4 32-1001, *et seq.* The nature of Greentree's business is that of soliciting claims for collection and  
5 collection of claims owed, due or asserted to be owed or due within the meaning of A.R.S. § 32-  
6 1001(2)(a).

7 2. Respondent Tina Rountree ("Ms. Rountree") is the CFO and President of Greentree.  
8 Ms. Rountree is authorized to transact business in Arizona as a collection agency within the meaning  
9 of A.R.S. §§ 32-1001, *et seq.*

10 3. Neither Greentree nor Ms. Rountree are exempt from licensure as a collection agency  
11 within the meaning of A.R.S. § 32-1004.

12 4. On March 16, 2009, the Department conducted an examination of Greentree's  
13 business affairs. As a result of the examination, the Department discovered that Greentree and Ms.  
14 Rountree :

15 a. Failed to deposit with a local depository all monies collected by them and due and  
16 owing clients, and to keep such monies deposited until those monies or equivalent  
17 amounts are remitted to such clients; specifically:

18 i. Respondents have over transferred trust funds to the operating account  
19 during twelve-month review period causing trust shortages during the  
20 twelve month-end period;

21 ii. Respondents used trust funds to pay operating expenses; and

22 iii. Respondents experienced trust shortages in the combined trust account  
23 and operating account during the twelve month-ends of the twelve-month-  
24 review period ending January 31, 2009;

25 Trust Shortages are as follows:

26 ...

<u>MONTH</u>	<u>TRUST ACCOUNT</u>	<u>OPERATING ACCOUNT</u>
February 2008	<\$61,668>	\$2,230
March 2008	<\$53,139>	\$4,250
April 2008	<\$94,690>	\$11,374
May 2008	<\$90,061>	\$1,629
June 2008	<\$97,114>	\$5,444
July 2008	<\$63,205>	<\$2,418>
August 2008	<\$84,516>	<\$1,284>
September 2008	<\$66,374>	<\$2,021>
October 2008	<\$48,190>	\$750
November 2008	<\$71,720>	<\$392>
December 2008	<\$52,340>	<\$156>
January 2009	<\$46,643>	<\$585>

iv. The Department has subsequently learned that as of September 30, 2009, the Company's trust shortage was reduced to <\$12,610> due to recent profits in collection operations. The operating account balance as of this date was <\$241>.

b. Failed to keep and maintain books, accounts, and records adequate to provide a clear and readily understandable record of all business conducted by the collection agency, including the Respondent's trust account reconciliations, prepared at least once a month;

i. Respondents did not provide trust account reconciliations for the respective trust accounts for the exam period; and

ii. The trust check register/general edger accounts were used for month-end balances;

c. Failed to keep and maintain books, accounts, and records adequate to provide a clear and readily understandable record of all business conducted by the collection agency, including books, records, and files maintained so that the Superintendent can easily conduct an unannounced spot check, as well as the required examinations and investigations;

i. Respondents' November 30, 2008, balance sheet submitted with their

- 1 annual renewal is not supported by the records provided during the  
2 examination for the same date;
- 3 ii. The balance sheet submitted shows a trust balance of \$97,382 and a trust  
4 liability of <\$92,486>; and
- 5 iii. The trust check register and trust general ledger show the November 30,  
6 2008, month-end trust account balance of <\$71,729> and no client  
7 liability as clients are paid at month-end;
- 8 d. Failed to withdraw from its trust account all fees and commissions due to the  
9 licensee under its contract with a client and deposit them directly into its own  
10 operating account; and failed to deposit in its trust account only the funds it has  
11 collected for its client; specifically:
- 12 i. Respondents' trust shortages were caused by over transfers of trust funds  
13 to the operating account; and
- 14 ii. Respondents commingled trust funds with company funds by maintaining  
15 trust funds in the operating account;
- 16 e. Failed to meet their financial responsibility and Respondents reported a negative  
17 net worth of <\$130,360> as of October 31, 2008; specifically:
- 18 i. The company's retained earnings were <191,061> and profits to date were  
19 \$42,819;
- 20 ii. The company's negative worth resulted from both negative retained  
21 earnings and the negative trust account balance of <48,190> as of the  
22 October 31, 2008, date;
- 23 iii. The Department has subsequently learned that as of August 31, 2009, the  
24 company's negative net worth had decreased to <\$71,128> due to  
25 profitable collection operations.
- 26 iv. Respondents are insolvent, which is a ground for license revocation.

LAW

1. Pursuant to Title 32, Chapter 9 of the Arizona Revised Statutes, the Superintendent is charged with the duty to regulate all persons engaged in the collection agency business and with the enforcement of statutes, rules and regulations relating to collection agencies.

2. By the conduct set forth in the Complaint, Respondents have violated statutes and rules governing collection agents as follows:

- a. A.R.S. § 32-1055(D)(2), by failing to deposit with a local depository all monies collected by him and due and owing clients, and to keep such monies deposited until those monies or equivalent amounts are remitted to such clients; experiencing shortages in the combined trust account and operating account during twelve month-ends of the twelve month-end-review period ending January 31, 2009;
- b. A.A.C. R20-4-1504(B)(5) by failing to keep and maintain books, accounts, and records adequate to provide a clear and readily understandable record of all business conducted by the collection agency, including the Respondent's trust account reconciliations, prepared at least once a month;
- c. A.A.C. R20-4-1504(B)(6) by failing to keep and maintain books, accounts, and records adequate to provide a clear and readily understandable record of all business conducted by the collection agency, including books, records, and files maintained so that the Superintendent can easily conduct an unannounced spot check, as well as the required examinations and investigations;
- d. A.A.C. R20-4-1505(E) and A.A.C. 20-4-1505(C) by failing to withdraw from its trust account all fees and commissions due to the licensee under its contract with a client and deposit them directly into its own operating account; and failing to deposit in its trust account only the funds it has

1 collected for its client; and

2 e. A.R.S. §§ 32-1053(A)(1), 32-1051(1) and A.R.S. § 47-1201 by failing to  
3 meet their financial responsibility, by having a negative net worth of  
4 <\$130,360> and a negative trust account balance of <\$48,190>, as of  
5 October 31, 2008.

6 3. Respondents failure to conduct their collection agency business in accordance with  
7 the law, constitutes grounds to suspend or revoke Respondents' collection agency license pursuant to  
8 A.R.S. § 32-1053(A)(3).

9 4. Pursuant to A.R.S. § 32-1053(A)(1), the Superintendent may deny a license to a  
10 person or suspend or revoke a license pursuant to Title 41, Chapter 6, Article 10, if the  
11 Superintendent finds that an applicant or licensee is insolvent as defined in A.R.S. § 47-1201(23).

12 5. Greentree is insolvent within the meaning of A.R.S. § 47-1201(23).

13 6. Greentree has violated A.R.S. § 32-1051(1) by failing to meet its financial  
14 responsibility.

15 7. Pursuant to A.R.S. § 6-132, Petitioners' violations of the aforementioned statutes are  
16 grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for  
17 each day.

18 The violations set forth above constitute grounds for: (1) the issuance of an order pursuant to  
19 A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and to take the  
20 appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent,  
21 to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the  
22 imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the suspension or revocation  
23 of Respondents' license pursuant to A.R.S. § 32-1053; and (4) an order to pay restitution of any fees  
24 earned in violation of A.R.S. §§ 32-1001, *et seq.*, pursuant to A.R.S. §§ 6-131(A)(3) and 6-137; and  
25 (5) an order or any other remedy necessary or proper for the enforcement of statutes and rules  
26 regulating collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.



WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the above-described violations, the Superintendent may impose a civil money penalty pursuant to A.R.S. § 6-132; suspend or revoke Greentree & Associates, Inc.'s collection agency license pursuant to A.R.S. § 32-1053; order payment of restitution of any fees earned in violation of A.R.S. §§ 32-1001, *et seq.*, pursuant to A.R.S. §§ 6-131(A)(3) and 6-137; and order any other remedy necessary or proper for the enforcement of statutes and rules regulating collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

DATED this 13<sup>th</sup> day of January, 2010.

Thomas L. Wood  
Acting Superintendent of Financial Institutions

By Robert D. Charlton  
Robert D. Charlton  
Assistant Superintendent of Financial Institutions

ORIGINAL of the foregoing filed this 13<sup>th</sup>  
day of January, 2010, in the office of:

Thomas L. Wood  
Acting Superintendent of Financial Institutions  
Arizona Department of Financial Institutions  
ATTN: Susan Longo  
2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

COPY mailed same date to:

Lewis D. Kowal, Administrative Law Judge  
Office of the Administrative Hearings  
1400 West Washington, Suite 101  
Phoenix, AZ 85007

Craig A. Raby, Assistant Attorney General  
Office of the Attorney General  
1275 West Washington  
Phoenix, AZ 85007

1 Robert D. Charlton, Assistant Superintendent  
Jack E. Watson, Senior Examiner  
2 Arizona Department of Financial Institutions  
2910 N. 44th Street, Suite 310  
3 Phoenix, AZ 85018

4 AND COPY MAILED SAME DATE by  
Certified Mail, Return Receipt Requested, to:

5 Tina Rountree, CFO/President  
6 Greentree & Associates, Inc.  
240 S. Hickory Street, Suite 100  
7 Escondido, CA 92025  
Respondents

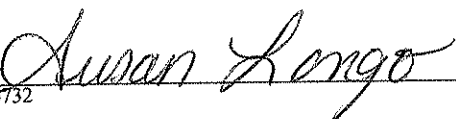
8 CT Corporation Systems, Statutory Agent for:  
9 Greentree & Associates, Inc.  
2394 E. Camelback Road  
10 Phoenix, AZ 85016

11 Tina Rountree, Agent for Service of Process for:  
Greentree & Associates, Inc.  
12 13110 Calls de Las Rosas  
San Diego, CA 92129

13

14

15

  
476732

16

17

18

19

20

21

22

23

24

25

26